IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 15188 of 2004

Between:

K.N.S.P. Kama Raju S/o. K. Ramakrishna Rao
Visakhapatnam Port Trust, Engineering Dept., Visakhapatnam.

..... PETITIONER

AND

1 Board of Trustee, rep. by Chairman,
Visakhapatnam Port Trust, Visakhapatnam.
2 Chief Engineer, Visakhaopatnam Port Trust, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus by declaring the action of the Respondents in not permitting the petitioner to join duty vide their proceedings CE/E1/SR&PC/3225, Dt.26.3.2004 of the 2nd respondent and set aside the same as illegal and violative of principles of natural justice with a direction to the respondents to permit the petitioner to join duty as overseer in the 2nd respondent organisation with all consequential benefits.

Counsel for the Petitioner: MR.M.V.L.SRINIVAS

Counsel for the Respondents: MR.P.SRI RAGHU RAM (SC FOR VPT)

The Court at the admission stage made the following:

HONOURABLE DR. JUSTICE G.YETHIRAJULU

WRIT PETITION NO.15188 OF 2004

ORDER:

The petitioner worked as an Overseer in the respondent-Port Trust from 12-03-1991. Subsequently, a disciplinary action was initiated against the petitioner for unauthorized absence, and after a detailed enquiry, he was removed from service through the proceedings dated 26-09-2001. After the order of removal, the petitioner kept quite for a period of 2 ½ years and on 13-01-2004, he submitted a letter expressing his willingness to join duty, but the second respondent through the impugned order dated 26-03-2004, rejected his request to join duty, on the ground that he was removed from service after conducting a departmental enquiry.

2. The petitioner did not respond to the final show cause notice issued by the disciplinary authority. After accepting the report of the enquiry officer, the petitioner did not prefer any appeal to the Deputy Chairman, Visakhapatnam Port Trust, within 45 days as prescribed under the Rules. The petitioner now came forward with the present Writ Petition requesting to direct the second respondent to permit him to join duty with all consequential benefits.

3. The petitioner faced a disciplinary action. He did not prefer any appeal against the order of removal. He did not file any application before the disciplinary authority to set aside the order of removal. The order of removal passed on 26-09-2001 became final.

4. The petitioner approached this Court through this Writ Petition, only challenging the order of rejection of his request to permit him to join duty. When the order of removal is in force, and when it became final, the petitioner is not entitled to claim that he is entitled to continue in service.

5. In the light of the above circumstances, the petitioner is not entitled for any relief and the writ petition cannot be maintained.

6. The Writ Petition is accordingly dismissed. No order as to costs.

Dr. G.YETHIRAJULU, J

26th August, 2004

SKM

TO

1 The Chairman,,Board of Trustee,
Visakhapatnam Port Trust, Visakhapatnam.
2 Chief Engineer, Visakhapatnam Port Trust, Visakhapatnam.

3 Two C.D. Copies.